

ADDITIONAL DISSENTING VIEWS OF MR. NADLER OF NEW YORK  
December 15, 1998

While I am in substantial agreement with, and have signed, the Minority Dissenting Views, I wish to clarify my thoughts on the question of congressional censure of the President.

There is no question, as the Minority Views clearly elucidate, that there is ample authority and precedent for the Congress to censure a President, or to express its views, favorable or unfavorable, on any topic.

Moreover, in this case, where a majority of the members of the House of Representatives believes that the President's conduct requires some action by the Congress short of impeachment, it is unconscionable for the Majority to abuse its control of this institution by preventing a vote on censure. Plainly, this matter involves important questions of fact, law and conscience. It is simply wrong to prevent members from being able to vote according to the dictates of their best judgement, conscience, and the concerns of the people who elected them in what can only be interpreted as a cynical attempt to coerce them into voting for impeachment by leaving them no other option. They have a right to a choice between the extreme and unjustified action of impeachment, and a less radical expression of the Congress' and the nation's disapproval as embodied in the motion of censure proposed by Representatives Boucher, Jackson-Lee, Delahunt and Barrett. The impeachment of a President was reserved by the Framers of the Constitution for only the most severe threats against the nation and our system of government. It exists as a remedy to prevent the President from becoming a tyrant. It should not be used for mere partisan purposes to overturn the will of the people as expressed in two national elections. By providing no alternative to impeachment, even an alternative which a majority of the House, and of the American people deem more appropriate, is little more than moral blackmail and unworthy of this House.

When it was considered in the Judiciary Committee, I supported censure, despite my reservations about the precedent it would set, because of my strong conviction that members should be afforded the opportunity to consider that option in the full House.

Notwithstanding my view that censure is within the power of the Congress, and that members should have the opportunity to vote on the question, I nonetheless have strong reservations about its use by Congress.

First, I oppose censuring the President for any alleged deeds which have been neither admitted nor proven. The authors of the censure resolution offered in the Judiciary Committee took great care to avoid this error. It is disturbing that the authors of the Articles of Impeachment failed to exercise the same judicious care when they included vague charges based on conjecture and testimony which has not been subject to cross-examination.

Second, I believe that censure sets a worrisome precedent to the extent that it would tend to undermine the comity and relations between coequal branches of government. It would be a

regrettable legacy of this matter if Congress gets into the business of issuing sweeping statements on the conduct of future Presidents. In this case, a majority of the American people and the members of this House believe that the President's actions were wrong and deserving of condemnations. The President has acknowledged his actions to his family, before a grand jury, and to the nation. He has sought forgiveness and national reconciliation. But, presidents often do things that anger or offend Members of Congress or the public. Presidents are answerable to the American people for that conduct and, should their actions violate the law, they are answerable in the courts. But to single out this president for deception about a personal indiscretion disturbs me.

We did not censure George Bush when he lied to the nation about being "out of the loop" in the Iran-Contra scandal or when he said, "Read my lips. No new taxes." President Reagan was not censured for using members of his White House staff and Cabinet to conceal the illegal acts in the Iran-Contra coverup, nor was President Bush censured for issuing pardons to keep those involved in that illegal conspiracy above the law.

With those reservations on the matter of censure, I join my colleagues in the minority in dissenting. Impeachment, especially impeachment forced on an unwilling nation by partisan strong-arm tactics, will divide this nation for years to come and undermine our democratic system of government.